

REMARKS

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1-38 are currently pending.
- Claims 1, 6, 14, 21-22, and 30-36 are amended herein.

Support for the amendments to claims 1, 4, 8, 14, 21-22 and 30-36 is found in the specification, as originally filed, at least at pages 17, 19, 20-22 and FIG. 9. The amendments submitted herein do not introduce any new matter.

Claims 1-13 Recite Statutory Subject Matter Under §101

Claims 1-13 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

Previous claim amendments to claim 1 have included “a user-input device,” and “a pixel array generator.” As both of these features recite hardware, Applicant respectfully submits that claims 1-13 already recite statutory subject matter.

Examiner mentioned amending “non-transitory” language into the claims. The memo by the PTO has suggested amending the claims with non-transitory as mere guidance, not intended to be mandatory language for §101 rejection. Rather, Applicant amends claim 1 to recite “A method implemented at least partially by a processor” and “assigning, by a processor configured with the executable instructions,” which are statutory subject matter and not of mental steps. Dependent claims 2-13 depend from

independent claim 1, and thus are depending from a statutory subject matter base claim. Applicant respectfully submits that the amendment renders the §101 rejection moot and respectfully requests withdrawal of the rejection under §101.

Claims 30-36 Recite Statutory Subject Matter Under §101

Claims 30-36 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

For the purpose of expediting prosecution and without commenting on the propriety of the Office's rejections, Applicant herein amends claims 30-36 as shown above. Support for the amendments is found in Applicant's original specification. For convenience, Applicant reproduces portions of the specification below (with emphasis added):

Exemplary computing device 900 typically includes a variety of computing device-readable media. By way of example, and not limitation, **computing device-readable media may comprise computing device storage media and communication media. Computing device storage media include volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computing device-readable instructions, data structures, program modules, or other data.** Computing device storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CD-ROM, digital versatile disks (DVD) or other optical disk storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other

medium which can be used to store the desired information and which can be accessed by computing device 900. **Communication media typically embodies computing device-readable instructions, data structures, program modules or other data in a modulated data signal such as a carrier wave** or other transport mechanism and includes any information delivery media.

Specification, page 20.

The specification describes that the computing device-storage media includes media for storage of information, which is clearly distinguished in Applicant's specification from communication media that includes a carrier wave or other transport mechanism. Applicant amends claims 30-36 to recite "a computing device-storage media" to distinguish that the claims recite statutory subject matter and do not claim a signal. Further, Applicant has stated on the record that the claims are not directed to a signal. Consequently, in view of the description set forth in Applicant's Specification and Applicant's statement for the record, no reasonable interpretation of Applicant's amended claims 30-36 can include transitory media such as a signal or a carrier wave. Instead, the terms in Applicant's amended claims should be interpreted according to their plain meaning in light of the Specification, i.e., as a computing device storage media for storage of information. See MPEP 2111.01. Under no reasonable interpretation can Applicant's computing device storage media be construed as being a transitory signal, and, further, the Office has failed to provide any evidence to that effect.

Should the rejection under 35 U.S.C. §101 be maintained against Applicant's claims, as amended, Applicant respectfully requests that the Office provide documentary

evidence, other than a memorandum generated by the Office, that clearly demonstrates that one skilled in the art would reasonably interpret “computing device storage media” to be a transitory signal in view of Applicant’s specification and statement for the record. For example, should the Office assert that “computing device storage media,” as defined in Applicant’s specification, and as generally understood in the art, would be reasonably interpreted as being a transitory medium, this amounts to Official Notice by the Office. Therefore, to expedite prosecution, Applicant respectfully requests documentary evidence to support any such assertion by the Office. *See, e.g., MPEP 2144.03(C), If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or Not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding with Adequate Evidence*, and 37 C.F.R. 1.104(d)(2). In view of the amendments herein, Applicant respectfully requests that the rejection of claims 30-36 under 35 U.S.C. §101 be withdrawn.

Cited Documents

The following documents have been applied to reject one or more claims of the Application:

- **Heikes:** Heikes, et al., U.S. Patent Application Publication No. 2003/0225847,
- **Danker:** Danker, et al., U.S. Patent Application Publication No. 2002/0184309,
- **Chodor:** Chodor, et al., U.S. Patent Application Publication No. 2002/0036990,
- **Hickman:** Hickman, et al., U.S. Patent No. 7,013,327,
- **Dawson:** Dawson, U.S. Patent No. 6,252,588,

- **Goodwin:** Goodwin, III, et al., U.S. Patent Application Publication No. 2002/0065931,
- **Goldschneider:** Goldschneider, et al., U.S. Patent Application Publication No. 2002/0107925,
- **Huntington:** Huntington, et al., U.S. Patent Application Publication No. 2003/0131098, and
- **Zhao:** Zhao, U.S. Patent No. 7,353,253.

Claims 1-36 are Non-Obvious Over Heikes in view of Danker and Seven Other

References

A. Claims 1-4, 6-7, 11-14, 17, 21, 23-25, 30-31, 33, and 35-36 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes in view of Danker. Applicant respectfully traverses the rejection.

B. Claims 5, 26, 28, 29, and 32 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes and Danker and further in view of Chodor. Applicant respectfully traverses the rejection.

C. Claims 8-10, 15, 16, 27 and 34 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes and Danker, in view of Chodor, and further in view of Hickman. Applicant respectfully traverses the rejection.

D. Claims 8-10, 15, 16, 27 and 34 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes and Danker, in view of Chodor, and further in view of Dawson. Applicant respectfully traverses the rejection.

E. Claim 18 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes and Danker, and further in view of Goodwin. Applicant respectfully traverses the rejection.

F. Claim 19 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes and Danker, in view of Goldschneider, and further in view of Huntington. Applicant respectfully traverses the rejection.

G. Claim 20 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes, Danker, Goldschneider, and Huntington, and further in view of Zhao. Applicant respectfully traverses the rejection.

H. Claim 22 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes and Danker. Applicant respectfully traverses the rejection.

Independent Claim 1

Claim 1 as amended, recites in part:

transforming, by a pixel array generator of the sender, the selected still image into a custom graphical emoticon;

obtaining a character sequence from the user via the user-input device of the sender, the character sequence includes alphanumeric characters;

assigning, by a processor configured with the executable instructions, the character sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon, wherein

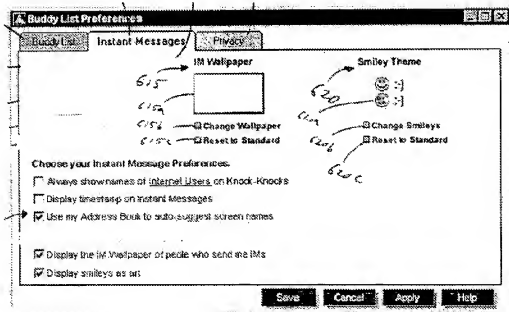
the character sequence acts as a placeholder for the custom graphical emoticon.

Heikes, a primary reference, describes “receiving a message that includes a text message and wallpaper to be displayed by the IM recipient when perceiving the text message, the wallpaper being selected by the instant message sender system, and rendering the wallpaper at the instant message recipient system when rendering another portion of the message.” Heikes, para. [0004]. “Wallpaper ... may be rendered by a receiving party (recipient) in an area associated with messages received from the sender, for instance, as a chrome (i.e., border) around a dialog area on a user interface.” Heikes, para. [0017]. “When an IM sender selects a category 805, a window 810 displays the wallpaper available in the selected category.” Heikes, para. [0068]. “The IM sender may select wallpaper by, for example, using a mouse or other input device to make the selection among the available items in the window 810.” Heikes, para. [0068]. In another implementation, the IM sender may provide a custom smiley theme. Heikes, para. [0068].

Danker describes “reducing the amount of input required when generating electronic messages using a device with limited input capabilities.” Danker, para. [0002]. “For instance, the status may indicate whether the user is online and ready to receive instant messages, offline, or online but unavailable to receive instant messages.” Id. “When a user changes status, other users receive a command, which changes the display of that user’s icon.” Id.

In setting forth a rejection of claim 1, the Office alleges that Heikes and Danker teach or suggest the recited features. Applicant respectfully disagrees for the following reasons. Applicant respectfully submits that Heikes and Danker fail to teach or suggest “transforming, by a pixel array generator of the sender, the selected still image into a custom graphical emoticon; obtaining a character sequence from the user via the user-input device of the sender, the character sequence includes alphanumeric characters; and assigning, by a processor configured with the executable instructions, the character sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon, wherein the character sequence acts as a placeholder for the custom graphical emoticon,” as recited in Applicant’s amended claim 1.

Applicant reproduces FIG. 6 from Heikes below:



Heikes, FIG. 6.

First, Applicant asserts that Heikes is directed towards wallpaper, which is described as an area associated with messages received from the sender, a chrome (i.e., border) around a dialog area on a user interface. Although Heikes mentions selecting smiley themes, the smileys are displayed as art on the wallpaper (see FIG. 6). In contrast, Applicant's claim 1 is directed towards transforming the selected still image into a custom graphical emoticon. Nowhere is there any transformation of the wallpaper in Heikes into a custom graphical emoticon. Rather, the wallpaper and the smileys are separate selections to be displayed (e.g., shown along the lower left side of FIG. 6). Thus, the wallpaper in Heikes is not analogous to "transforming, by a pixel array generator of the sender, the selected still image into a custom graphical emoticon," as recited in Applicant's claim 1.

In rejecting the features of "transforming, by a pixel array generator of the sender, the selected still image into a custom graphical emoticon" of this claim, the Office cites Heikes, paragraphs [0058], [0059], [0060], [0068], and Figure 7 as teaching the above suggested language.

Second, Applicant submits that the cited portions of Heikes merely describe selecting the wallpaper in para. [0058], receiving the wallpaper selection in para. [0059], and receiving the wallpaper to be rendered that may include a type identifier as wallpaper, flags to indicate a custom or an "official" item. The cited paragraphs describe acts pertaining to the wallpaper or identifier in Heikes, not of any transformation of the

wallpaper as in Applicant's claim 1. For convenience, Applicant reproduces portions of the paragraphs below:

[0058] The IM sender may have selected wallpaper from a location including the IM sender system 105, the IM host system 310, or another...
Heikes, para. [0058].

[0059] The IM host system 310 receives the wallpaper selection from the IM sender system 105 (step 525), and responsive thereto, the IM host system 310 sends and/or stores one or more of the selected wallpaper.
Heikes, para. [0059].

[0060] Finally, the IM sender system 105 receives the selected wallpaper (step 535). The items may include information allowing the wallpaper to be rendered by the IM recipient system. For example, the wallpaper may include a type identifier that identifies the wallpaper as wallpaper. Also, the wallpaper may include one or more flags to indicate, for example, if the wallpaper is a custom item or an "official" item, has been banned, or has expired.
Heikes, para. [0060].

Third, Applicant submits that the cited paragraph [0068] of Heikes merely describes the user selecting the smiley themes to go with the wallpaper. As clearly shown in FIG. 6, the wallpaper and smileys are two separate items to be selected by the user to be displayed (e.g., along the lower left side). FIG. 8 is the user interface for the smiley theme categories of 620b. There is no transformation of the wallpaper into the smiley in Heikes. Thus, the wallpaper in Heikes is not analogous to the transformation of

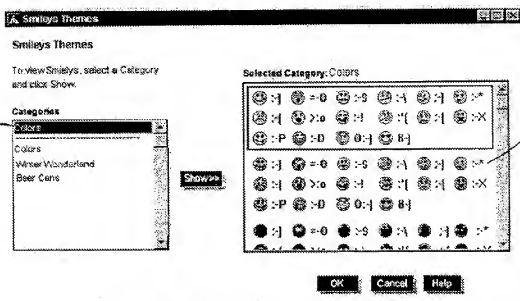
the selected still image into a custom graphical emoticon. For convenience, Applicant reproduces paragraph [0068] below:

[0068] FIG. 8 illustrates an example of a UI 800 for enabling an IM sender to select smiley themes. The UI 800 is rendered in response to user manipulation of a control 620b (shown in FIG. 6). In the example of FIG. 8, the IM sender is presented with a list of smiley theme categories 805. When an IM sender selects a category 805, a window 810 **displays the wallpaper available in the selected category. The IM sender may select wallpaper by, for example, using a mouse or other input device to make the selection among the available items in the window 810.** Also, an archive of old wallpaper may be provided for IM sender selection. **In another implementation, the IM sender may provide a custom smiley theme.**

Heikes, para. [0068]. (with emphasis added)

In rejecting the features of “assigning, by a processor configured with the executable instructions, the character sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon, wherein the character sequence acts as a placeholder for the custom graphical emoticon” of this claim, the Office cites Heikes, paragraph [0068], and Figure 8 as teaching the above suggested language.

For convenience, Applicant reproduces FIG. 8 from Heikes below:



Heikes, FIG. 8

Fourth, Applicant submits that FIG. 8 of Heikes merely shows the categories of the smiley themes to go with the wallpaper. There is a sequence of smiley faces in Heikes, but this is not analogous to a character sequence representing the custom graphical emoticon as in Applicant's claim 1. Nowhere is it shown in FIG. 8 of Heikes of "assigning, by a processor configured with the executable instructions, the character sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon, wherein the character sequence acts as a placeholder for the custom graphical emoticon" as recited in Applicant's claim 1.

Fifth, Applicant conducted a thorough search of Heikes. Nowhere is there any discussion or mention of a character sequence in Heikes. If there is no discussion or mention of a character sequence in Heikes, there cannot be any assigning of the character

sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon, and the character sequence acting as a placeholder for the custom graphical emoticon. Thus, Heikes fails to disclose, teach, or suggest the recited features.

Sixth, Applicant submits that the cited portion of para. [0068] of Heikes used to reject this portion of the claim merely describes how the IM sender may provide a custom smiley theme. Again, this is not analogous to the recited features of “assigning, by a processor configured with the executable instructions, the character sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon, wherein the character sequence acts as a placeholder for the custom graphical emoticon” as recited in Applicant’s claim 1.

Danker fails to remedy the deficiencies of Heikes. Danker was not cited for teaching or suggesting these features.

In order to advance prosecution, Applicant amends claim 1 to further clarify the following features, which are not taught or suggested by the combination of Heikes and Danker:

obtaining a character sequence from the user via the user-input device of the sender, the character sequence including alphanumeric characters.

For at least the reasons presented herein, the combination of Heikes and Danker does not teach or suggest all of the features of claim 1. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 1.

Dependent Claims 2-13

Claims 2-4, 6, 8, and 11-13 ultimately depend from independent claim 1. As discussed above, claim 1 is patentable over the cited documents. Therefore, claims 2-4, 6, 8, and 11-13 are also patentable over the cited documents of record for at least their dependency from a patentable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claims 2-4, 6, 8, and 11-13.

Claim 5 depends from independent claim 1. As discussed above, claim 1 is allowable over the combination of Heikes and Danker. Chodor is cited for its alleged teaching of parsing the character sequence into an object name for the custom graphical emoticon set. However, Chodor fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 1. Therefore, claim 5 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 5.

Claims 7, 9, and 10 ultimately depend from independent claim 1. As discussed above, claim 1 is allowable over the combination of Heikes and Danker. Chodor is cited

for its alleged teaching of the identifier and location being included in a message. The Office argues that Hickman, or alternatively Dawson, teaches storing an identifier and a location in the header of a message. However, Chodor, Hickman, and Dawson each fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 1. Therefore, claims 7, 9, and 10 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejections of claims 7, 9, and 10.

Independent Claim 14

Claim 14, as amended, recites in part:

receiving a communication by a message receiver, the communication including a character sequence in a text message, wherein the character sequence includes alphanumeric characters and is mappable to an array grid of pixels residing outside the communication.

For reasons similar to those discussed above with respect to claim 1, Heikes and Danker, alone or in combination, fail to teach or suggest at least “receiving a communication by a message receiver, the communication including a character sequence in a text message, wherein the character sequence includes alphanumeric characters and is mappable to an array grid of pixels residing outside the communication,” as presently recited in Applicant’s claim 14. Accordingly, Applicant

respectfully submits that claim 14 is patentable over Heikes and Danker, alone or in combination, for at least the reasons set forth above with respect to claim 1. Applicant respectfully requests withdrawal of the rejection under §103.

Dependent Claims 15-20

Claim 17 depends from independent claim 14. Therefore, claim 17 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 17.

Claims 15 and 16 depend from independent claim 14. As discussed above, claim 14 is allowable over the combination of Heikes and Danker. Chodor, Hickman, and Dawson are cited for the additional features recited in claims 15 and 16. However, Chodor, Hickman, and Dawson each fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 14. Therefore, claims 15 and 16 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejections of claims 15 and 16.

Claim 18 ultimately depends from independent claim 14. As discussed above, claim 14 is allowable over the combination of Heikes and Danker. Goodwin is cited for its alleged teaching of using a local storage medium comprising a cache of temporary

files used by a web browser. However, Goodwin fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 14. Therefore, claim 18 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 18.

Claims 19 and 20 depend from independent claim 14. As discussed above, claim 14 is allowable over the combination of Heikes and Danker. Goldschneider is cited for its alleged teaching of attempting to establish a direct link with a sender of a communication to retrieve the array grid of pixels from a storage medium associated with the sender if a file is not located in the local storage medium. The Office further argues that Huntington teaches retrieving a file through a server between the sender of a communication and a receiver of the communication if a direct link to a sender cannot be established. However, Goldschneider and Huntington fail to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 14. Therefore, claims 19 and 20 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejections of claims 19 and 20.

Independent Claim 21

Claim 21 recites, in part:

sending, by a message transmitter, a real-time first communication that includes a character sequence representing graphics data of an emoticon represented by a single array grid of pixels;
mapping the character sequence in the real-time first communication with the graphics data from the second communication.

For reasons similar to those discussed above with respect to claim 1, Heikes and Danker, alone or in combination, fail to teach or suggest at least “sending, by a message transmitter, a real-time first communication that includes a character sequence representing graphics data of an emoticon represented by a single array grid of pixels; mapping the character sequence in the real-time first communication with the graphics data from the second communication,” as presently recited in Applicant’s claim 21. Accordingly, Applicant respectfully submits that claim 21 is patentable over Heikes and Danker, alone or in combination, for at least the reasons set forth above with respect to claim 1. Applicant respectfully requests withdrawal of the rejection under §103.

Dependent Claim 22

Claim 22 depends from independent claim 21. As discussed above, claim 21 is allowable over the combination of Heikes and Danker. Claim 22 recites in part, “actions

of adapting images of various sizes and formats to a pixel array format of predetermined size for use as the graphics data of emoticons.”

The Office alleges claim 22 is taught by Heikes, Danker, and further in view of Official Notice. Applicant traverses the taking of Official Notice in this instance.

The MPEP states “if official notice is taken of a fact, **unsupported by documentary evidence**, the technical line of reasoning underlying a decision to take such notice must be clear and unmistakable” (MPEP 2144.03B).

The Office has taken Official Notice, that “adapting images of various sizes and formats to a pixel array format of predetermined size” as recited in Applicant’s claim 22 was well known in the art at the time of the invention. (Office Action, pg. 27). Pursuant to MPEP §2144.03, Applicant is seasonably challenging the statement by the Office that is not supported on the record. There is no support of documentary evidence or technical line of reasoning that is clear to support the Official Notice.

Therefore, the Office is requested to cite a reference or documentary evidence supporting the position that it would have been obvious “to adapt images of various sizes and formats to a pixel array format of predetermined size” to arrive at the recited features of Applicant’s claim 22 in accordance with the claimed subject matter.

If the Office is unable to provide such a reference or documentary evidence, and is relying on facts based on personal knowledge, Applicant requests that such facts be set forth in an affidavit under 37 C.F.R. §1.104(d)(2). Absent substantiation by the Office, Applicant respectfully requests that the rejection under §103 be withdrawn.

Moreover, the Office's Official Notice fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 21. Therefore, claim 22 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 22.

Independent Claim 23

Claim 23 recites in part:

an image selector configured to create a custom graphical emoticon from a still image, wherein the custom graphical emoticon is representable as a single array grid of pixels;

a character sequence assignor configured to associate a sequence of characters with the custom graphical emoticon, the sequence of characters being input by a user via a user-input device.

For reasons similar to those discussed above with respect to claim 1, Heikes and Danker, alone or in combination, fail to teach or suggest at least "an image selector configured to create a custom graphical emoticon from a still image, wherein the custom graphical emoticon is representable as a single array grid of pixels; a character sequence assignor configured to associate a sequence of characters with the custom graphical emoticon, the sequence of characters being input by a user via a user-input device," as presently recited in Applicant's claim 23. Accordingly, Applicant respectfully submits that claim 23 is patentable over Heikes and Danker, alone or in combination, for at least

the reasons set forth above with respect to claim 1. Applicant respectfully requests withdrawal of the rejection under §103.

Dependent Claims 24-29

Claims 24 and 25 depend from independent claim 23. As discussed above, claim 23 is allowable over the cited documents. Therefore, claims 24 and 25 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejections of claims 24 and 25.

Claims 26, 28, and 29 ultimately depend from independent claim 23. As discussed above, claim 23 is allowable over the combination of Heikes and Danker. Chodor is cited for the additional features recited in claims 26, 28, and 29. However, Chodor fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 23. Therefore, claims 26, 28, and 29 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claims 26, 28, and 29.

Claim 27 ultimately depends from independent claim 23. As discussed above, claim 23 is allowable over the combination of Heikes and Danker. Chodor, Hickman, and Dawson are cited for their alleged teaching of the additional features of claim 27. However, Chodor, Hickman, and Dawson each fails to remedy the deficiencies of Heikes

and Danker as noted above with regard to independent claim 23. Therefore, claim 27 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 27.

Independent Claim 30

Claim 30 recites in part:

creating a custom graphical emoticon by selecting an image associated with the custom graphical emoticon by a sender;
representing the image as a single array grid of pixels for the custom graphical emoticon;
assigning a character sequence to the custom graphical emoticon, wherein the character sequence is assignable by the sender.

For reasons similar to those discussed above with respect to claim 1, Heikes and Danker, alone or in combination, fail to teach or suggest at least “creating a custom graphical emoticon by selecting an image associated with the custom graphical emoticon by a sender; representing the image as a single array grid of pixels for the custom graphical emoticon; assigning a character sequence to the custom graphical emoticon, wherein the character sequence is assignable by the sender,” as presently recited in Applicant’s claim 30. Accordingly, Applicant respectfully submits that claim 30 is patentable over Heikes and Danker, alone or in combination, for at least the reasons set

forth above with respect to claim 1. Applicant respectfully requests withdrawal of the rejection under §103.

Dependent Claims 30-36

Claims 31, 33, 35, and 36 ultimately depend from independent claim 30. As discussed above, claim 30 is allowable over the cited documents. Therefore, claims 31, 33, 35, and 36 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejections of claims 31, 33, 35, and 36.

Claim 32 depends from independent claim 30. As discussed above, claim 30 is allowable over the combination of Heikes and Danker. Chodor is cited for the additional features recited in claim 32. However, Chodor fails to remedy the deficiencies of Heikes and Danker as noted above with regard to independent claim 30. Therefore, claim 32 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 32.

Claim 34 depends from independent claim 30. As discussed above, claim 30 is allowable over the combination of Heikes and Danker. Chodor, Hickman, and Dawson are cited for their alleged teaching of the additional features of claim 34. However, Chodor, Hickman, and Dawson each fails to remedy the deficiencies of Heikes and

Danker as noted above with regard to independent claim 30. Therefore, claim 34 is also allowable over the cited documents of record for at least its dependency from an allowable base claim, and also for the additional features that it recites. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 34.

Claim 37 is Non-Obvious Over Heikes, Danker, Chodor, and Hickman.

Claim 37 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes, Danker, Chodor, and Hickman. Applicant respectfully traverses the rejection.

Independent Claim 37

Claim 37 recites, in part:

creating, by a pixel array generator, an emoticon pixel set by a sender by selecting a single set of pixels, which is a custom emoticon;

mapping the character sequence to the emoticon pixel set using a keyboard device;

transmitting, to the destination, the text message by a sender, the text message including the character sequence, which was mapped to the pixel emoticon set, the destination being configured to identify and locate the transferred emoticon pixel set at the destination using the identifier and the location transmitted in the header of the text message, wherein both the text message and the emoticon pixel set are displayed on a screen of the destination, the emoticon pixel set being substituted at the destination within the text message for the character sequence mapped to the emoticon pixel set within the text message, the emoticon pixel set being transferred

from the sender to the destination separately from the transmission of the text message from the sender to the destination.

Applicant respectfully submits that Heikes, Danker, Chodor, and Hickman fail to teach or suggest the recited features as shown above in Applicant's claim 37.

In setting forth a rejection of claim 37, the Office states that "[a]s to claim 37, the claim is rejected for reasons similar to claims 1, 5, 8, and 31 above." Office Action, page 28.

First, the Office alleges that Heikes, Danker, Chodor, and Hickman teach or suggest the recited features by stating for reasons that are similar to claims 1, 5, 8, and 31. However, the Office has failed to provide citations for all of the features that are rejected in claim 37. In particular, the Office has failed to cite portions of the references that disclose, teach, or suggest the following recited features:

transmitting, to the destination, the text message by a sender, the text message including the character sequence, which was mapped to the pixel emoticon set, the destination being configured to identify and locate the transferred emoticon pixel set at the destination using the identifier and the location transmitted in the header of the text message, wherein both the text message and the emoticon pixel set are displayed on a screen of the destination, the emoticon pixel set being substituted at the destination within the text message for the character sequence mapped to the emoticon pixel set within the text message, the emoticon pixel set being transferred from the sender to the destination separately from the transmission of the text message from the sender to the destination.

Without any citation, Applicant can only merely guess as to how to argue that the references do not disclose, teach, or suggest these recited features. Furthermore, the finality of the Office Action was premature as there were not any citations provided by the Office for the rejection of claim 37.

Second, Applicant conducted a thorough search of Heikes and Danker. Nowhere is there any discussion or mention in Heikes and/or Danker of the recited transmitting features as shown above in Applicant's claim 37.

Third, for reasons similar to those discussed above with respect to claim 1, Heikes and Danker, alone or in combination, fail to teach or suggest at least "creating, by a pixel array generator, an emoticon pixel set by a sender by selecting a single set of pixels, which is a custom emoticon; mapping the character sequence to the emoticon pixel set using a keyboard device," as presently recited in Applicant's claim 37. Accordingly, Applicant respectfully submits that claim 37 is patentable over Heikes and Danker, alone or in combination, for at least the reasons set forth above with respect to claim 1.

For at least the reasons presented herein, the combination of Heikes and Danker does not teach or suggest all of the features of claim 37. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 37.

Claim 38 is Non-Obvious Over Heikes, Danker, Dawson, Goldschneider, and Huntington.

Claim 38 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Heikes, Danker, Dawson, Goldschneider, and Huntington. Applicant respectfully traverses the rejection.

Independent Claim 38

Claim 38 recites, in part:

a text message, the text message including a custom-emoticon-mapped character sequence, which is mapped to a custom emoticon pixel set, which is defined as a set of pixels residing outside the communication; and

a header storing at least one of an identifier and a location of the custom emoticon pixel set, the identifier and the location comprising at least part of an object name for the custom emoticon pixel set;

determining whether the custom emoticon pixel set is stored in a local storage medium of the message receiver, wherein the determining utilizes the identifier and the location;

displaying the text message in a screen, the custom emoticon pixel set being displayed in the text message instead of and in place of the custom-emoticon-mapped character sequence in the text message.

Applicant respectfully submits that Heikes, Danker, Hickman, Goldschneider, and Huntington fail to teach or suggest the features as recited in Applicant's claim 38.

In setting forth a rejection of claim 38, the Office states that “[a]s to claim 38, the claim is rejected for reasons similar to claims 1, 15, 17, and 19 above.” Office Action, page 28. Applicant respectfully disagrees for the following reasons.

First, the Office alleges that Heikes, Danker, Hickman, Goldschneider, and Huntington teach or suggest the recited features by stating for reasons that are similar to claims 1, 15, 17, and 19. Applicant submits that the Office has failed to cite portions of the references that disclose, teach, or suggest the following recited features:

a header storing at least one of an identifier and a location of the custom emoticon pixel set, the identifier and the location comprising at least part of an object name for the custom emoticon pixel set;

determining whether the custom emoticon pixel set is stored in a local storage medium of the message receiver, wherein the determining utilizes the identifier and the location;

displaying the text message in a screen, the custom emoticon pixel set being displayed in the text message instead of and in place of the custom-emoticon-mapped character sequence in the text message.

Without any citation, Applicant can only merely guess as to how to argue the references do not disclose, teach, or suggest the recited features above.

Second, Applicant conducted a thorough search of Heikes and Danker. Nowhere is there any discussion or mention in Heikes and/or Danker of the recited features as shown above in Applicant’s claim 38.

Third, for reasons similar to those discussed above with respect to claim 1, Heikes and Danker, alone or in combination, fail to teach or suggest at least “a text message, the text message including a custom-emoticon-mapped character sequence, which is mapped to a custom emoticon pixel set, which is defined as a set of pixels residing outside the communication,” as presently recited in Applicant’s claim 38. Accordingly, Applicant respectfully submits that claim 38 is patentable over Heikes and Danker, alone or in combination, for at least the reasons set forth above with respect to claim 1.

For at least the reasons presented herein, the combination of Heikes and Danker does not teach or suggest all of the features of claim 38. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 38.

Conclusion

For at least the foregoing reasons, all pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application.

If any issues remain that would prevent allowance of this application, **Applicant requests that the Examiner contact the undersigned representative before issuing a subsequent Action.**

Respectfully Submitted,

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